

penalties, and for other causes, shall be made as follows:

(a) Direct transfer by the debtor to the creditor of the acknowledged amount, or

(b) Payments by a bank in the creditor's country, by way of immediate payment of amounts acknowledged by the debtor, on the basis of his credit notes.

#45.

If a letter of credit is called for by special conditions of delivery and is not opened by the buyer within the period established by the contract, he shall be obliged to pay the seller for each day of lateness beyond the period established by the contract until the day the letter of credit is established, a fine of 0.05%, but not more than 5% of the amount of the letter of credit.

The seller shall be obliged to give the buyer additional time for opening a letter of credit, but shall not thereby lose his right to charge a fine.

If the buyer does not open the letter of credit even within the additional time, the seller shall have the right to cancel the contract. In that case, he may at his own discretion either receive from the buyer the fine provided above or a forfeit in the amount of 3% of the amount of the letter of credit if another measure of forfeiture is not set in the contract.

In case of delay in opening a letter of credit, the seller shall have the right to delay shipment of the goods.

If the goods are shipped by the seller before the opening of the letter of credit, although even with a delay beyond the agreed times, the bank in the seller's country shall accept documents for payment in

the usual procedure of collection of payments.

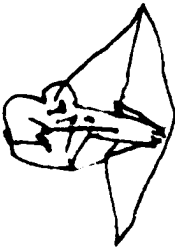
**XIII. Instances in which the Parties are Relieved of Responsibility**

1. The parties shall be relieved of responsibility for partial or complete nonperformance of obligations under the contract, if caused by circumstances of force majeure.

By circumstances of force majeure shall be understood the circumstances which arose after conclusion of the contract as a result of events of an extreme character which were unforeseen and unavoidable by the party.

2. The parties shall be relieved of responsibility upon the occurrence of other circumstances if so provided by mutual agreement, or by the contract, or by the law of the seller's country applicable to the given contract.

3. In instances provided by sections 1 and 2 of



the present article, the time of performance of their obligations by the parties shall be extended by the time during which such circumstances and their consequences are operative.

If these circumstances last longer than 5 months for goods whose time of delivery does not exceed one year from the moment of conclusion of the contract, or more than 8 months for goods whose time of delivery is established at more than 12 months from the moment of conclusion of the contract, ~~then each of the~~ parties shall have the right to refuse further performance of the contract, and in that case neither side shall have the right to demand from the other party compensation for possible losses.

The provisions of the present section relating to extension of times of performance of contracts shall not apply to contracts for a time (i.e., con-

tracts by virtue of whose explicit indications or from whose contents it clearly appears that on breach of times of delivery they shall be cancelled automatically or the seller shall have the right of immediate refusal to perform them).

The party for whom it has become impossible to perform obligations under the contract must immediately notify the other party in writing of the occurrence and the cessation of the aforementioned circumstances.

#### XIV. Claims for Quality and Quantity

§47.

Claims may be submitted:

(a) For quality of goods (including a breach of completeness or assortment), in the event of their nonconformance to contract terms;

(b) For quantity of goods, if from the circumstances of the case it does not appear to be the responsibility of the carrier.

The seller shall bear responsibility for changes in quality of goods, their damage, spoiling or insufficiency, and after passage of the right of property and risk to the buyer, if the changes in quality of the goods, their damage, spoiling or insufficiency are due to the fault of the seller.

§18.

Claims may be submitted:

- (a) In relation to quality of the goods, within six months from the date of delivery;
- (b) In relation to the quantity of goods, within three months from the date of delivery;
- (c) In relation to goods for which there was established a guaranty period, not later than 30 days from the expiration of the guarantee period, provided that the defect was discovered within the guaranty period.

Failure to present claims within the aforementioned times shall deprive the buyer of the right to resort to arbitration.

§49.

Where it is unclear from the circumstances of the case who should bear the responsibility for quantitative or qualitative defects in the goods (the carrier or the shipper), or if mixed responsibility is possible and a claim is submitted against the carrier, the buyer, in order not to lose the time for presentation of claims to the seller, must, within the limits of the time for presentation to the seller of claims, shall notify him of the submission of any claim against the carrier.

If it appears from the explanation of the carrier or from the decision of a court that responsibility for the given claim must be borne by the shipper, the

buyer shall be obliged without delay, after receipt of refusal from the carrier or notice of the court's decision, to direct to the seller documents confirming his claim with an appended copy of the carrier's letter or the decision of the court.

§50.

The claim must show the quantity and type of the claimed goods, the content and basis of the claim, as well as the concrete demands of the buyer.

§51.

In presenting claims for quantity, the buyer shall have the right to demand either shipment of the remaining quantity or return of the amounts he paid for the insufficient quantity of goods.

In presenting claims for quality, the buyer shall have the right to demand either elimination of the discovered defects or the value of the goods.

If the buyer demands elimination of defects, the seller must correct the defect at his own expense or exchange the defective goods.

In the cases stated in the preceding paragraph, the buyer shall have the right to demand from the seller the payment of a penalty as for a delay in delivery, according to the standard provided in §59, from the date the claim was submitted to the day of elimination of the defect or to the date of delivery for the goods in exchange for those rejected. However, the amount of the fine for one part or unit of the goods cannot exceed 8% of the cost of the defective goods or the defective part of the goods subject to correction or exchange, including a penalty for delay in delivery if such delay took place and the penalty had already been charged.

**§52.**

The seller, without delay, but not later than 45 days from the day the claim was received, shall be obliged to investigate the claim and give an answer to the buyer either on the substance of his claim or on the course of the investigation.

If the seller gives no answer whatsoever to the buyer's claim within 45 days of its receipt, the buyer shall have the right to resort to arbitration, and in that event, independent of the outcome of the case, expenses of the arbitration shall be borne by the seller.

**§53.**

Under a contract for a time, the seller must eliminate the defect or exchange the defective goods within the time of delivery provided by the contract; otherwise, the buyer shall have the right to renounce

63.

the contract immediately at the expiration of the time of delivery and to demand a forfeit from the seller as if for a delay in delivery, as well as the return of paid amounts.

§54.

The buyer shall not have the right to return goods to the seller against whom he submitted a claim for quality, without his consent.

The foregoing provision shall not be applied to a case where the seller continues shipment (§56) in spite of the demand of the buyer for suspension of shipment where there are repeated deliveries of defective parts.

§55.

Exchanged defective articles or lots shall be returned to the seller upon his demand, not later than 6 months after their exchange.

The seller shall bear all transport and other expenses connected with the return and/or exchange of defective articles, both within the territory of the buyer's country and the country of transit and within the territory of the seller's country.

856.

A complaint for one lot of goods shall not give the buyer the right to refuse acceptance of following lots of the goods provided by the contract.

Upon repeated deliveries of defective lots of goods, the buyer shall have the right to demand a suspension of further deliveries until such time as the circumstances giving rise to the defects shall have been eliminated by the seller.

In this event, the buyer shall have the right to demand from the seller the payment of a penalty for the delay in delivery, measured by the rate provided in 859, from the day when, according to the contract,

the goods should have been sent, till the day the seller resumes deliveries of high-quality goods.

§57.

If the seller, in relation to goods for which no guaranty has been provided by the contract, does not eliminate the defects for which he bears responsibility, the buyer shall have the right to eliminate them himself with recourse to the seller for the normal actual expenses.

§58.

If the final acceptance of the goods for quality is made in the seller's country, in accordance with the contract, the claim concerning quality may be presented, if not otherwise stipulated in the contract, only for hidden defects (which could not have been discovered by usual inspection of the goods.)

# XV. Sanctions

## §59.

In case delivery of goods is delayed beyond the time established by the contract, the seller shall pay the buyer a penalty based on the cost of the goods not delivered in time.

The penalty shall be charged as of the moment stated in the bilateral agreement or in the contract, on the basis of the following rate: for the first 30 days -- 0.05% for each day; for the next 30 days -- 0.08% for each day; beyond that, 0.12% for each day. However, the total amount of the penalty for delay may not exceed 8% of the cost of the goods concerning which the delay took place.

## §60.

If the seller permits a delay in the presentation of technical documentation, without which the machine or plant cannot be put into operation, he shall pay a

penalty based on the cost of the machine or plant to which the technical documentation pertains, by the procedure and at the rate established in §59.

§61.

If another time is not established in the contract, upon a delay in the delivery of goods for over 1 month, and, for heavy plant of nonserial production, more than 6 months beyond the time of delivery established in the contract, the buyer shall have the right to refuse performance of the contract in relation to a delayed lot as well as to a previously delivered lot if the delivered lot of goods cannot be used without that part which was not delivered.

For complete factories and installations, times for renunciation of the contract shall be agreed upon by the parties in each individual case.

In case of renunciation of the contract, the

seller shall be obliged to return to the buyer payments made by the latter, with a surcharge of 4% per annum.

The regulations of the first and second paragraphs of this section shall not apply to contracts for a time.

§62.

In the event of breach of the time of delivery under a contract for a time, if the buyer renounces the contract, the seller shall pay him a forfeit at the rate established in the bilateral agreement or in the contract.

Where under such a contract the buyer consents to accept goods with a delay, then the forfeit shall not be levied, but the seller shall pay the buyer a penalty for each day from the first day of delay, at the rate established in §59.

§63.

For non-notification or untimely notification by

the seller to the buyer that a shipment of goods has been made, the seller shall pay the buyer a penalty at the rate of 0.1% of the cost of the shipped goods, however not less than 50 roubles and not more than 500 roubles for one shipment.

§64.

Claims for penalties must be presented not later than 3 months from the date the penalty ceases to be charged.

Nonpresentation of the claim in the aforementioned period shall deprive the buyer of the right to resort to arbitration.

#### XVI. Arbitration

§65.

All disputes which may arise out of or in connection with the contract shall be subject to consideration by arbitration, the jurisdiction of general courts

being excluded, ~~in~~ an arbitral tribunal established for such disputes in the country of the respondent or, by agreement of the parties, in a third participant country of the Council for Mutual Economic Aid.

Counter-claims shall be subject to consideration in the arbitral tribunal in which the original suit is considered.

Disputes shall be considered in accordance with the rules of procedure which are operative in the arbitral tribunal in which the case is decided.

The decisions of the arbitral tribunal shall be final and binding on the parties.

XVII. Other Conditions

866.

If the railroad assigns a car with a larger loading capacity than that applied for by seller, or if the railroad, relying on the limits of pressure on the

axle for the particular section, refuses to load the car to the weight standards prescribed or provided by the tariff for the given load, the seller shall be obliged to demand official confirmation of this by the railroad in the bill of freight.

The same condition shall apply to cases where the cars are assigned by the buyer.

§67.

Where the car, by fault of the seller, is not loaded in accordance with the standards of the Uniform Transit Tariff (UTT), the seller shall bear the expenses for the consequent underloading on the transit railroad.

§68.

Where there are deliveries of loads not corresponding to the dimensions conditions of the buyer's railroad, the seller shall be obliged not later than

two months before the time of delivery to notify the buyer of this fact by a registered letter, appending drawings of the dimensions of the load, with a statement of its measurements and weight. The date of dispatch, and the border station through which the load must pass, shall be precisely defined by the parties and the date of shipment must be confirmed by the seller not later than 21 days before the dispatch of the load.

§69.

The seller shall not be obliged to insure the delivered goods if such is not expressly provided by the contract.

§70.

All claims must be presented by registered letter with all confirming documents appended.

The date of their presentation shall be the date

of the stamp of receipt of the registered letter by the postal department of the claimant's country.

871.

The parties shall mutually refrain from presenting claims where the amount demanded does not exceed 50 roubles, with the exception of demands for an accounting in connection with alleged arithmetical errors.

872.

Neither of the parties shall have the right to transfer its rights and obligations under the contract to third persons without the written consent of the other party.

873.

All expenses, taxes, customs duties and charges connected with the performance of the contract, which are imposed in the territory of the seller's country, shall be paid for by the seller; and in the territory

79.

of the buyer's country, as well as in the transit territory, by the buyer.

874.

Relations of parties to the delivery of goods, insofar as they are not regulated or not fully regulated by the contracts or by the present General Conditions, shall be governed by the substantive law of the seller's country.

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